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FUJIFILM HUNT SMART SURFACES, LLC;  
FUJIFILM HUNT CHEMICALS U.S.A., INC.;  
FUJIFILM HOLDINGS AMERICA CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MATSON NAVIGATION COMPANY, INC.

Plaintiff,

v.

THE SHERWIN-WILLIAMS COMPANY

Defendant.

Case No. 3:17-cv-00081 EDL

*(Assigned to the Honorable Elizabeth D. Laporte)*

**FUJIFILM HUNT SMART SURFACES,  
LLC, FUJIFILM HUNT CHEMICALS  
U.S.A., INC. AND FUJIFILM HOLDINGS  
AMERICA CORPORATIONS'  
RESPONSE TO OBJECTION TO REPLY  
EVIDENCE**

THE SHERWIN-WILLIAMS COMPANY

Third-Party Plaintiff,

v.

FUJIFILM HUNT SMART SURFACES,  
LLC; FUJIFILM HUNT CHEMICALS  
U.S.A., INC.; FUJIFILM HOLDINGS  
AMERICA CORPORATION,

Third-Party Defendant.

Third Party Defendants FUJIFILM Hunt Smart Surfaces, LLC, FUJIFILM Hunt  
Chemicals U.S.A., Inc. and FUJIFILM Holdings America Corporation (the "FUJIFILM Parties")  
hereby submit this response to the Objection to Reply Evidence filed by Third Party Plaintiff  
Sherwin-Williams ("S-W").

1 S-W is correct that the email attached as Exhibit A to the Declaration of Noel S. Cohen  
2 appears to have been inadvertently sent to the wrong address. The FUJIFILM Parties apologize  
3 for that error. S-W is incorrect, however, that it has not had the opportunity to address the  
4 authorities cited in that email. While there were four cases identified in Mr. Cohen's email, three  
5 of those cases were included in a string cite. The lead case, and only case, quoted in the email,  
6 was *Farmers Ins. Exch. v. Portage La Prairie Mut. Ins. Co.*, 907 F.2d 911 (9th Cir. 1990).

7 This Ninth Circuit opinion may sound familiar. That is because despite apparently not  
8 receiving Mr. Cohen's email prior to filing its Opposition, *Farmers Ins. Exchange* is the most  
9 cited case in S-W's entire Opposition. Indeed, S-W relied on *Farmers Ins. Exchange* five  
10 separate times. See Opposition at p. 9, 10, 11 and 15. Because S-W relied so heavily on this  
11 case, the FUJIFILM Parties would necessarily have had to address that authority on Reply,  
12 regardless of whether the case was raised in the moving papers. After repeatedly relying on  
13 *Farmers Ins. Exchange* in its Opposition, S-W's contention that it did not have the opportunity to  
14 address *Farmers Ins. Exchange* and those cases in accord with it is not well taken.

15 For all the forgoing reasons, the FUJIFILM parties respectfully request that the Court  
16 overrule S-W's objection and consider all evidence before it in ruling on the Motion to Dismiss.

17  
18 Dated: August 23, 2017

POLSINELLI LLP



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21 By: Noel S. Cohen

22 Attorneys for Third-Party Defendants  
23 FUJIFILM HUNT SMART  
24 SURFACES, LLC;  
25 FUJIFILM HUNT CHEMICALS  
26 U.S.A., INC.;  
27 FUJIFILM HOLDINGS AMERICA  
28 CORPORATION

**CERTIFICATE OF SERVICE**

I am over the age of 18 and not a party to the within action; I am employed by POLSINELLI LLP in the County of Los Angeles, California at 2049 Century Park East, Suite 2900, Los Angeles, California 90067.

On August 23, 2017, I served the foregoing document(s) described as:

**FUJIFILM HUNT SMART SURFACES, LLC, FUJIFILM HUNT  
CHEMICALS U.S.A., INC. AND FUJIFILM HOLDINGS AMERICA  
CORPORATIONS' RESPONSE TO OBJECTION TO REPLY EVIDENCE**

on the interested parties in this action by:

[X] **By CM/ECF:** I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses denoted on the Electronic Mail notice list, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants (if any) indicated on the Manual Notice list/Service List.

[X] **(Federal)** I declare under penalty of perjury under the laws of the State of California and under the laws of the United States of America that the above is true and correct.

Executed on August 23, 2017, at Los Angeles, California.

/s/ Noel Cohen  
Noel Cohen